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Docket # MC 93-34

18349 QA

April 29, 1994

Mr. Bryan L. Price
Office of Motor Carrier Standards
Federal Highway Administration
Department of Transportation
400 Seventh Street SW
Washington, D.C. 20590

FHWA-97-2213-10

Dear Mr. Price,

I am writing to you pursuant to our telephone conversation regarding pending rulemaking concerning driver, or relief driver sleeper facilities on board motor coaches. Because this issue only became known to me on April 4, 1994, I was pleased to learn that the deadline for comments had been extended beyond the orignal cut off date of March 14, 1994.

My family has been involved in the bus and coach industry, to one extent or another, since 1915. My blacksmith grandfather built buses on the chassis of White and Commerce trucks. He then operated a Jitney service in Newark, New Jersey and its surrounding communities until the late 1920s. This business was ultimately sold to the Public Utilties Commission of New Jersey, along with legion other independent firms and what eventually emerged is known today as New Jersey Transit.

My father founded our current business in 1960 as a tour operator, and purchased his first coach in 1967. Since that time, our firm has grown to include 15 modern luxury touring coaches. Two of these coaches, as a matter of fact, are fitted with sleeper compartments, a feature we originally learned about in Europe about 1982. This idea seemed to perfectly fit our need to provide a place where relief drivers can truly acheive rest on a coast to coast journey.

Having been raised in this business, my technical education began when I assisted my father with the reassembly of a Leyand 600 engine in a British double-decker at the age of eight, if I recall correctly. I was enlisted because I was smaller and better able to fit in the engine compartment! Since that time, I've earned a law degree from the University of Tulsa, and an engineering degree from the school of hard knocks.

As the advanced notice of proposed rulemaking (ANPRM) suggests, the sleeper berth rules pertaining to trucks may need revision as accommodations become more popular and more widely used in the motorcoach industry. In creating such rules, it is extremely important to recognize and appreciate the polar differences between the trucking industry and the motorcoach industry. I hope to address each of the questions raised in the ANPRM as they are listed in defining these differences.

1.) Should existing Sleeper berth regulations be amended to account for design differences between motorcoaches and trucks? If so, what changes should be made and why?

The first, and most important issue regarding sleeper berths is the difference in the extent of use comparing the trucking and the motorcoach (bus) industries. Because truckers, on the one hand, typically spend weeks, or even months at a time in their trucks, sleeper berths in trucks have evolved, both through practice and through regulation into literal bedrooms attached to the back of truck bodies. In a practical sense, this evolution is both necessary and logical. This vehicle application necessitates that the truck truly represent a home away from home for truckers because the margin of profit in that industry, as I understand it, would not permit drivers to afford hotel/motel lodging each night, even if their delivery schedules would allow it.

In the motorcoach industry, sleeper berths serve merely as a place for a driver to obtain a peaceful rest for a few hours during a 24 or 30 hour trip. At the beginning of the trip, of course, the driver is at home and needs no special accommodations. Typically, at the destination, there is a hotel waiting for the driver where he will find very comfortable facilities either provided at the expense of his company, or by the traveling party. Therefore, the sleeper berth for a coach driver is merely a tool to aid him in performing a rigorous job which has an easily forseeable end.

It is also very important to the analysis of this feature to accept the natural fact that in a box which is 96 to 102 inches wide, 12 feet tall and 40 to 45 feet long there is only a predictable amount of space. Within that available space must be included, or course, the passengers, anywhere from 40 to 53 in number, their baggage, their carry-on belongings, fixtures to

accommodate their needs like seats, baggage compartments, and lavatory (and more commonly video, stereo, fax machines, a coffee bar, and a host of other facilities). It goes without saying that an engine, gearbox, axles, air conditioning, and other crucial components will be needed within this size-restricted box. Within this space and among these facilities we are hoping to also fit another human and provide him with a bed.

Make no mistake, I am a firm believer in both the concept of sleeper berths, and the freedom of coach builders to exercise their creativity, with certain important restrictions. Naturally, logic dictates that certain undeniable features must necessarily be included in any sleeper berth design for coaches. Among these is:

a.) a provision for the entrance and exit of a normal size person to and from the passenger area of the coach.

b.) a provision for entrance and exit of a normal size person to and from the exterior of the coach in the event of an emergency.

c.) sufficient room for a normal sized person to lie flat on his back without touching the sides of the compartment and thereby, hopefully avoid the feeling of entombment (although the space must obviously be sufficiently small to make it economical and practical considering the other necessary articles included in our box listed above).

d.) sufficient room for a normal sized person to turn over comfortably.

e.) a practical means for the sleeper berth occupant to easily operate any access hatch, either into the passenger compartment, or the emergency exit.

f.) a ventilation system, controllable by the occupant of the sleeper berth including air conditioning, heat and fresh air ventilation.

g.) features b. and e. obviously apply only to those sleeper berth arrangements which substantially isolate the occupant from the passenger compartment through some permanent means, such as a wall or bulkhead.

h.) In no instance should the sleeper compartment be located adjacent to the vehicle fuel tank, or other similarly highly flamable containers.

2.) What is the current extent of sleeper berth useage within the motorcoach industry?

While the current extent of sleeper berth useage in the U.S. is inascertainable because the vast majority of sleeper berths are home-made,

removeable types, their use and the evolution of sleeper berths is progressing rapidly.

The technology has obviously been imported both from Europe and from Mexico. It would be wise to investigate the regulatory restrictions placed on the use of sleeper berths in the E.U. and elsewhere in considering any American regulations. These market, although often overlooked in their safety regulation rational, for reasons unknown to me, have much broader and deeper involvement in the coach industry than the U.S.D.O.T. and certainly must be willing to share their experiences and the rational for their regulations, where such regulations exist.

3.) How many motorcoaches have been manufactured with sleeper berths as part of their original equipment? How and where are these sleeper berths installed? How many comply with §396.76? How many do not?

As with 2., above, it is difficult to ascertain the number of vehicles originally built with sleeper berths, but the experiences in other markets where coaches are much more proliferate makes emense sense to me. An analysis of these rules should help our own goverment develop a rational rule.

I shall purposely avoid any compliance analysis in my comments with 49 CFR 393.76. Because of the vast differences in these industries discussed above, I believe. it is innappropriate to address compliance issues with a regulation which, arguably, has no application to the issue under discussion.

4.) How many motorcoaches have been retrofitted with sleeper berths? How were these sleeper berths installed? How many comply with §396.76? How many do not?

I have seen an enormous variety of sleeper berths fitted to coaches from the most elementary ones which involve removal of seats to fit a bunk, to suspended bunks hung from the ceiling of the coach where the overhead baggage compartment has been removed. Each of these applications ranged from innovative to hazardous depending on the care with which the installation was made.

5.) Do after-market changes, such as cutting holes in the floor, or modifying the cargo compartment, affect the structural integrity of the motorcoach?

Without a detailed analysis of each change to be made in the alteration, or modification, of any aspect of any vehicle to ascertain the totality of the impact on the overall vehicle, it is careless to comment on the affect of the installation to the integrity of vehicles. However, my personal

experience over more than 25 years of careful observation and daily interaction with buses and coaches is that reputable coach operators are extremely attentive to the condition of their vehicles and any changes made to them.

Those who whould make careless modifications to their vehicles will also operate vehicles which are substandard by a variety of different measurements. Vigorous enforcement of known and quantifiable safety standards will go farther to protect the public and the occupants of sleeper berths than a series of unnecessarily restrictive codes addressing only sleeper berths.

I am also firmly convinced that creative freedom to allow coach builders and workshops to design and construct different features of coaches will ultimately solve problems with which we wrestle daily, not only regarding sleeper berths.

The legal standard of "the highest degree of care" which is placed on coach operators, as common carriers, by our society's system of jurisprudence will go farther to regulate the design and construction of all features of vehicle design than a long and complex design code such as the ones implemented regarding push-out windows on buses and coaches which are all but impossible to fully understand.

6.) The FHWA notes that if a driver sleeper berth is located within the baggage area and occupied while the motorcoach is in operation, the occupant could be vulnerable to a side impact collision. Are special provisions necessary to ensure the occupant's safety?

Because virtually every passenger bus in the U.S. is designed and tested to be higly resistant to side impact collision, additional regulation on this regard will only serve to add unnecessary weight (thereby sacrificing fuel enconomy - another issue of national concern) and unnecessarily complicate the design of the vehicle. Properly designed, no greater risk should be associated with occupancy of a sleeper berth than with general occupancy of the vehicle.

7.) If a driver sleeper berth is located in the baggage area of the motorcoach, should its locations be restricted (e.g. only the forward most portion of the baggage area)? If the sleeper berth is used while the vehicle is in operation, would having a sleeper berth near the rear of the motorcoach subject persons occupying the berth to excessive heat, noise, or exhaust?

So long as the logical and practical criteria identified in 1., above are adhered to, the precise location of the sleeper berth should not be a dramatic concern for rulemaking purposes.

Naturally, exhaust gases, a known lethal by-product of the fuel combustion process is an issue to be regulated. However, the relief driver, by definition, as an occupant of the vehicle not sitting in the driver's seat, is a passenger. As such, all exhaust gas rules and regulations prohibit the entry of exhaust gases into the passenger compartment. Therefore, the regulations necessary to prevent this problem already exist.

Heat and noise are other considerations which are not necessarily as critical to the safety of the driver and will, undoubtedly be regulated by the market. Any coach builder who builds an uncomfortable compartment as a sleeper berth will not sell it. Any regulations should be restricted to the critical issues addressed in number 1., above.

8.) The current requirements of $396.76 for a direct and ready means [of] exit from the sleeper berth into the driver's seat or compartment may be design-restrictive for motorcoaches. Should the exit requirements allow a ready means of exit into the passenger compartment of the motorcoach instead of the driver's seat or compartment?

As discussed above, 49 CFR 393.76, as it exists, would be an improper application if applied to motorcoaches. An adjustment of the sleeper regulation is necessry regarding motorcoaches. Specification requiring access into either the driver's area, or the passenger area of the coach is more useful for motorcoach application and provides more creative versatility to the coach builder.

9.) Would separate motorcoach sleeper berth regulations enhance motorcoach safety of benefit the motorcoach industry? If yes, how?

I have no actual knowledge of any dangerous situation which has been created as a direct result of the existance of a sleeper berth in a motorcoach. Naturally, life carries with it peril. The potential for a catastrophy always exists. But, I firmly believe that the creative freedom to design and implement new ideas, not only for sleeper berths, but for a long list of other features onboard coaches, far outweighs the potential for hazard. In the case of sleeper berths, this creativity has probably enhanced passenger safety by assuring the traveling public that the individual behind the wheel has had, at least the opportunity, for peaceful rest.

In its final analysis, officials should carefully analyze whether motorcoach sleeper berths require regulations, or if such restrictions are rules for the sake of rulemaking. If it is determined that a rules are necessary, such rules should be limited to critical safety factors outlined in

1., above and do not infringe on the creative flexibility of coach builder's to explore creative solutions to problems yet to be discovered.

Respectfully Submitted,

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Kraftours Corporation